

ESTTA Tracking number: **ESTTA665638**

Filing date: **04/08/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Board of Trustees of the University of Arkansas
Granted to Date of previous extension	04/08/2015
Address	2404 North University Avenue Little Rock, AR 72207 UNITED STATES
Attorney information	Harold J. Evans Williams & Anderson PLC 111 Center Street, Suite 2200 Little Rock, AR 72201 UNITED STATES hevans@williamsanderson.com Phone:501-396-8461

Applicant Information

Application No	86340208	Publication date	12/09/2014
Opposition Filing Date	04/08/2015	Opposition Period Ends	04/08/2015
Applicant	KRJ, Inc. PO Box 1571 Ocklawaha, FL 321831571 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Clothing, namely, shirts, pants, sweatshirts; headwear


Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2172446	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 006. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 metal license plates

U.S. Registration No.	2172445	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 billfolds, wallets, tote bags, duffel bags, umbrellas and travelling bags		


U.S. Registration No.	2172444	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 advertising directories, yearbooks, decals, bumper stickers, paper flags, pens,pencils, paper napkins, paper coasters,stationery, postcards, wrapping paper, playing cards, book covers, folders and notebooks

U.S. Registration No.	2172443	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE


Word Mark	NONE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1967/01/00 First Use In Commerce: 1991/06/00 clothing, namely, T-shirts, sport shirts, sweatshirts, sweat pants, shorts, jackets, sweaters, jerseys, sun visors, caps, hats, neckties, scarves, shoes, socks, cloth baby bibs, wrist bands head bands, rain ponchos, non-leather belts, non-leather suspenders


U.S. Registration No.	2172442	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 1991/02/00 First Use In Commerce: 1991/02/00 mugs, coasters, cups, drinking glasses, plates, and canned drink insulator sleeves

U.S. Registration No.	2125604	Application Date	01/03/1997
Registration Date	12/30/1997	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1968/10/01 First Use In Commerce: 1968/10/01 educational services, namely, providing courses of instruction at the college level; and entertainment services, namely, organizing and promoting sports events and providing musical performances and concerts		

U.S. Registration No.	2949381	Application Date	03/12/2002
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	ARKANSAS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 wastebaskets [, soap dishes, drinking glasses, mugs, drinking steins, cups, insulated foam beverage holders, coffee services not of precious metal, glass and ceramic creamers, plates and coasters not of paper or table linen]

U.S. Registration No.	2949380	Application Date	03/12/2002
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 [Refrigerator magnets] Class 021. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 [Wastebaskets, soap dishes,] drinkingglasses, mugs, drinking steins, cups [insulated foam beverage holders, coffeeservices not of precious metal, glass and ceramic creamers, plates and coastersnot of paper or table linen]

U.S. Registration No.	2931190	Application Date	03/12/2002
Registration Date	03/08/2005	Foreign Priority Date	NONE

Word Mark	ARKANSAS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 decals, [bumper stickers, paper flags,pens, pencils, paper napkins, paper coasters, stationary, envelopes, postcards,wrapping paper, book covers, folders, notebooks, binders, writing pads, writingtablets, calendars, desk calendars, planning and appointment books, file folders, stationary folders; and publications,namely, catalogues, programs, brochures, pamphlets, directories, classified directories, academic monographs, printed reports and papers, all relating to educational services and entertainment services offered at the university undergraduate and graduate levels; advertising directories and yearbooks]
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U.S. Registration No.	2914988	Application Date	03/12/2002
Registration Date	12/28/2004	Foreign Priority Date	NONE

Word Mark	RAZORBACKS
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Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 decals, [bumper stickers, paper flags,pens, pencils, paper napkins, paper coast- ers, stationery, envelopes, postcards,wrapping paper, book covers, folders, notebooks, binders, writing pads, writingtablets, calendars, desk calendars, planning and appointment books, file folders, stationary folders; and publica- tions,namely, catalogues, programs, brochures, pamphlets, directories, classi- fied directories, academic monographs, printed reports and papers, all relating to educational services and entertainment services offered at the university un- dergraduate and graduate levels; advertising directories and yearbooks]		
U.S. Registration No.	2887048	Application Date	03/12/2002
Registration Date	09/21/2004	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2001/09/30 First Use In Commerce: 2001/09/30 clothing, namely, caps, [hats, sun visors, neck ties, scarves, jerseys, t-shirts, sweatshirts, tank tops, jackets, socks, shoes, cloth baby bibs, wrist bands, head bands, non-leather belts, non-leather suspenders, sweaters, sport shirts, rugby shirts, polo shirts, shorts, sweatshirts, sweatpants, rain ponchos, mittens, dresses, aprons and pajamas]		
U.S. Registration No.	3077039	Application Date	03/12/2002
Registration Date	04/04/2006	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 024. First use: First Use: 2001/11/30 First Use In Commerce: 2001/11/30 Potholders and oven mitts

Attachments	75221128#TMSN.png(bytes) 75221127#TMSN.png(bytes) 75221099#TMSN.png(bytes) 75221074#TMSN.png(bytes) 75221073#TMSN.png(bytes) 75221071#TMSN.png(bytes) 76977343#TMSN.png(bytes) 76977340#TMSN.png(bytes) 76381381#TMSN.png(bytes) 76977031#TMSN.png(bytes) 76381379#TMSN.png(bytes) 76381378#TMSN.png(bytes) KRJ, Inc. Opposition.pdf(617227 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/harold j. evans/
Name	Harold J. Evans
Date	04/08/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Applications Serial No. 86340208

Mark: TEAM HOG DAWGS and Hog Head Design

BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS

Opposer,

Opposition No. _____

v.

KRJ, Inc.

Applicant.

NOTICE OF OPPOSITION

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS, a public institution of higher education and an instrumentality of the State of Arkansas, having its principal place of business at 2404 North University Avenue, Little Rock, Arkansas 72207 (“Opposer”), believes that it will be damaged by registration of the mark consisting of the words “TEAM HOG DAWGS” and a hog head design, as shown in Trademark Application Serial No. 86340208 for “clothing, namely, shirts, pants, sweatshirts; headwear” filed by KRJ, Inc. (“Applicant”) on July 17, 2014 and published in the Official Gazette on December 9, 2014 (“Applicant’s Mark”). Applicant is a Florida corporation having a mailing address at P.O. Box 1571, Ocklawaha, Florida 32183-1571. Pursuant to 15 U.S.C. §§ 1052, 1063, and 1125(c) and 37 C.F.R. §§ 2.101 and 2.104(a), Opposer, by and through its attorneys, hereby opposes Trademark Application Serial No. 86340208.

As grounds for the Opposition, Opposer alleges:

1. Opposer, a public institution of higher education and an instrumentality of the State of Arkansas, owns all legal rights, title and interest to the trademarks and service marks of the University of Arkansas (the “University”).

2. The University adopted and has used continuously the mark RAZORBACKS, Registration No. 1,590,197, since at least as early as 1909 and has been using the mark in interstate commerce since at least as early as 1909. The University uses the mark, *inter alia*, to promote and advertise the athletic events in which the University’s teams participate, the educational services the University offers, and the musical performances and concerts the University provides. The mark is valid, subsisting, and incontestable under Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065.

3. The University adopted and has used continuously a hog design as the pictorial equivalent of the RAZORBACKS mark since at least as early as 1911 and has been using the mark or derivatives or variations thereof in interstate commerce since at least as early as 1911 (“Razorback Design Marks”). The University uses the Razorback Design Marks, *inter alia*, to promote and advertise the athletic events in which the University’s teams participate and the educational services the University offers and on various products.

4. Opposer also owns the following registrations on the Principal Register in the United States Patent and Trademark Office (USPTO). All of the registrations identified in the charts below are valid, subsisting, and incontestable under Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065.

TRADEMARK	REG. NO.	REG. DATE	GOODS/SERVICES
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,446	7/14/98	Metal license plates

MISCELLANEOUS DESIGN (Helmet Hog)	2,172,445	7/14/98	Billfolds, wallets, tote bags, duffel bags, umbrellas and traveling bags
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,444	7/14/98	Advertising directories, yearbooks, decals, bumper stickers, paper flags, pens, pencils, paper napkins, paper coasters, stationery, postcards, wrapping paper, playing cards, book covers, folders and notebooks
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,443	7/14/98	Clothing, namely, T-shirts, sports shirts, sweatshirts, sweat pants, shorts, jackets, sweaters, jerseys, sun visors, caps, hats, neckties, scarves, shoes, socks, cloth baby bibs, wrist bands, head bands, rain ponchos, non-leather belts, non-leather suspenders
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,442	7/14/1998	Mugs, coasters, cups, drinking glasses, plates, and canned drink insulator sleeves
MISCELLANEOUS DESIGN (Helmet Hog)	2,125,604	12/30/97	Educational services, namely, providing courses of instruction at the college level; and entertainment services, namely, organizing and promoting sports events and providing musical performances and concerts

ARKANSAS and Design (snorting pig)	2,949,381	05/10/05	Wastebaskets
RAZORBACKS and Design (snorting pig)	2,949,380	05/10/05	Drinking glasses, mugs, drinking steins, and cups
ARKANSAS and Design (snorting pig)	2,931,190	03/08/05	Decals

TRADEMARK	REG. NO.	REG. DATE	GOODS/SERVICES
RAZORBACKS and Design (snorting pig)	2,914,988	12/28/04	Decals
RAZORBACKS and Design (snorting pig)	2,887,048	09/21/04	Clothing, namely, caps, t-shirts, sports shirts, sweatshirts, sweatpants, and pajamas
RAZORBACKS and Design (snorting pig)	3,077,039	04/04/06	Potholders and oven mitts

5. The mark shown in Registration No. 1,590,197, identified in paragraph 2 above, and the marks described in paragraph 4 above, including the Razorback Design Marks, shall be referred to collectively herein as “the RAZORBACK marks.”

7. The University’s athletic teams, called “RAZORBACKS” and “ARKANSAS RAZORBACKS,” have competed in athletic events throughout the United States. “Calling the HOGS” has become a favorite pastime of attendees at such events. Nationwide television broadcasts of the events have been shown in states where the teams have not appeared or directly competed.

8. As a result of the extensive public exposure of the University’s RAZORBACK teams, and the University’s long and continuous use of its RAZORBACK marks in connection with a wide variety of other services and goods, the public has, since long before 2014, come to associate the Razorback hog designs uniquely with the University as the source of services and goods provided under the marks.

9. The University has used and continues to use its RAZORBACK marks in connection with various services and goods. Through the University’s trademark licensing program, such goods include many different types of products, including many types of clothing items.

10. The University’s RAZORBACK marks are symbolic of the extensive and valuable good will and customer recognition built up through substantial amounts of effort and advertising and promotional expenditures. By virtue of these efforts and expenditures and the excellence of its products and services, the RAZORBACK marks have become very strong and famous.

11. Applicant filed Trademark Application Serial No. 86340208 for “clothing, namely, shirts, pants, sweatshirts; headwear” on July 17, 2014 under Section 1(b) of the Lanham Act.

12. The University’s RAZORBACK marks became famous long prior to the application filing date of Applicant’s Mark.

13. The University’s RAZORBACK marks listed in paragraphs 2 and 4 of this Notice of Opposition registered on the United States Patent and Trademark Office's Principal Register prior to the application filing date of Applicant’s Mark.

14. The University’s dates of first use and dates of first use in commerce for its RAZORBACK marks listed in paragraphs 2 and 4 of this Notice of Opposition are long prior to July 17, 2014, Applicant’s filing date. The University’s RAZORBACK marks and registrations listed in Paragraphs 2 and 4 are valid and subsisting, and those registrations are incontestable. The University’s legal rights are, therefore, paramount and superior to Applicant’s.

15. The Applicant's Mark, shown in Trademark Application Serial No. 86340208, contains a confusingly similar derivative copy of the Razorback Design Marks listed in Paragraph 4 of this Notice.

16. A likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), exists between the University's RAZORBACK marks and Applicant's Mark because the latter’s mark incorporates a Razorback hog head. Applicant's Mark also is confusingly similar to the Razorback Design marks, identified in the charts above, in that it contains the dominant feature of those marks.

17. A likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C.

§ 1052(d), exists between the University's RAZORBACK marks and Applicant's Mark because the RAZORBACK marks are used on a broad range of goods such that a consumer would be likely to believe that the University is the source of Applicant's goods or services.

18. On information and belief, consumers who are likely to buy the University's goods and participate in and be familiar with the University's services are substantially the same or overlap significantly with the consumers who are likely to buy Applicant's goods.

19. Persons familiar with the University's RAZORBACK marks would be likely to buy Applicant's goods believing them to originate with or be endorsed or sponsored by the University. Any defect, objection or fault found with the goods offered under Applicant's Mark would necessarily reflect upon and seriously injure the reputation of the University's goods and services.

20. Applicant's commercial use of its marks will cause a likelihood of confusion and a presumption or false suggestion that the University has endorsed or approves of the goods bearing Applicant's Mark, or that the University and Applicant are affiliated or associated, all to the considerable detriment of the University.

21. Applicant's use of its marks in connection with the goods identified in Trademark Application Serial No. 86340208 will seriously impair the uniqueness of the University's famous RAZORBACK marks and will dilute the distinctive quality of those marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

22. The hog design of Applicant's Mark is confusingly similar to one or more of the hog designs used by another institution, the University. The University or its authorized licensees have used the hog designs for many years prior to Applicant's filing date. Consumers are likely to recognize that the hog designs point uniquely and unmistakably to the University, given the

fame and renown of the University and its athletic programs. The University is not connected or affiliated with the Applicant, the Applicant's activities, or the Applicant's Mark. As set forth above, the University's RAZORBACK marks and identity are famous and renowned such that consumers would presume a connection between the Applicant and the University when they encounter Applicant's applications for and/or alleged use of the hog designs in connection with Applicant's goods. Thus, Applicant's Mark falsely suggests a connection with the University and its RAZORBACK marks in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), and is not entitled to registration.

23. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to the University.

24. For all the foregoing reasons, registration of Applicant's Mark will result in damage to Opposer, and registration should be refused.

WHEREFORE, Opposer requests respectfully that the Opposition be sustained and Trademark Application Serial No. 86340208 be refused registration.

Respectfully submitted,

BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS

Dated: April 8, 2015

By: 

Harold J. Evans

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CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and correct copy of this Notice of Opposition was served by United States first-class mail, postage prepaid, this 8th day of April, 2015 on Applicant at the following address:

Christopher J. Day
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Scottsdale, Arizona 85258-4499

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By: 

Harold J. Evans (AR #78214)
Attorney for Opposer